

**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
Division of State Parks  
Honolulu, Hawaii 96813

June 9, 2011

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: SP110402

Kaua'i

**Request for Approval for Sale of Eighteen (18) Leases (up to 20 years) at Public Auction for Recreational Residence Purposes, Waimea and Koke'e State Parks, (Kona), Kaua'i.**

REQUEST:

Sale of 18 leases at public auction for recreational residence purposes.

LEGAL REFERENCE:

Sections 171-14, 171-16, 171-17, Act 223 and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waimea situated at Koke'e State Park and Waimea Canyon State Park, Waimea (Kona), Kaua'i, in the neighborhoods identified as Pu'u ka Pele, Halemanu and Koke'e Camp Site lots as identified on the attached Exhibit A.

AREA:

15.93 acres, more or less, in 18 different lots subject to confirmation by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Conservation  
County of Kauai CZO: None.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act.  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES \_\_\_\_ NO x\_\_\_\_

CURRENT USE STATUS:

Vacant and encumbered by Executive Order No. 1509 setting aside 4,640 acres as a territorial park and forest reserve (affecting Koke'e Camp Site Lots) and Executive Order No. 2209 adding

ITEM E-2

1080.50 acres to Waimea Canyon State Park (affecting Pu'u ka Pele and Halemanu Lots).

**CHARACTER OF USE:**

Recreational Residences purposes and for no other purpose.

**LEASE TERM:**

Up to twenty (20) years beginning on the Commencement Date.

**COMMENCEMENT DATE:**

Sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

**MINIMUM UPSET ANNUAL RENT:**

As determined by the existing independent bulk appraisal establishing fair market rent prepared by Hastings, Conboy, Braig & Associates, Ltd., subject to review and approval by the Chairperson. The successful bidder(s) shall reimburse the DLNR for its share of the cost of the appraisal.

**METHOD OF PAYMENT:**

Annual payments, in advance.

**RENTAL REOPENINGS:**

At the end of the 10th year of the lease term, by staff or independent appraisal.

**PERFORMANCE BOND:**

An amount equal to the first year's annual rental amount for each lessee.

**PROPERTY CHARACTERISTICS:**

Utilities -	The Division of State Parks operates its own potable water system but does not guaranty the availability or reliability of said water service and reserves the right to terminate service, and/or adjust rates as necessary. Electricity is provided by KIUC and is not guaranteed as well.
Slope -	The recreation residences are situated in a mountainous area and the topography varies between fairly level and steep grades.
Elevation -	The elevation of the cabins ranges from approximately 2,500 feet to approximately 4,000 feet above sea level.
Rainfall -	Rainfall varies from approximately 39-69 inches per year.

Legal access to property – Staff has verified that there is legal access to the property off of Koke'e Road and various dirt roads are not maintained and may not be suitable for conventional passenger vehicles.

Subdivision – Staff has verified that the subject property to be auctioned is a legally subdivided lot.

Encumbrances – Staff has verified that the following encumbrances exist on the properties: Executive Order Nos. 1509 and 2209.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

State Parks believes that this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under Chapter 343, Hawaii Revised Statutes (HRS) and §11-200-8(a)(1), Hawaii Administrative Rules (HAR) and within exemption Class 1, Numbers 2 and 6 of the State Parks Exemption List which exempts operations involving negligible or no expansion or change of use beyond that previously existed within park boundaries [February 5, 1976].

REMARKS:

At its meeting on July 25<sup>th</sup> 2008, Agenda Item E-5, the Board approved the issuance of recreational leases to current permittees pursuant to Act 223 (2008) which is attached as Exhibit "B". The permittees were issued revocable permits after their original 1985 leases had expired. The Board proposed an open process to auction those leases. However, Act 223 (2008) directed the Board to issue new leases to existing permittees by direct negotiation.

Pursuant to Act 223, the leases were for a term of 20 years commencing January 1, 2009. The lots which are the subject of this submittal (listed in Exhibit A), were not disposed of by direct negotiation. The 18 lots include two previously used by the DLNR which are no longer needed. In lieu of these two lots, staff proposes to withhold one lot identified as Lot 59, Pu'u ka Pele, TMK (4) 1-4-02:059, for department use.

Act 223 provided a framework for the Board to auction new leases:

(d) Any recreation-residence use lease for a cabin that is vacant and owned by the State on the effective date of this Act or that expires on December 31, 2008, pursuant to subsection (c), shall be auctioned by the board pursuant to section 171-14, Hawaii Revised Statutes; provided that the board of land and natural resources shall first provide bona fide full-time residents of a county in the state with a population of less than 100,000 with the opportunity to obtain any such lease by auction. If any leases remain after such an auction, the board may offer remaining available leases at auction to bidders who are bona fide full-time residents of the State of Hawaii, and then at auction to nonresidents of the State.

This requirement may result in a three tiered process depending on the result of auction open to residents of a county in the state with a population of less than 100,000 and to all state residents.

The highest and best use of the properties is a recreation residence use as determined by a 2009 appraisal.

Staff believes the subject areas are not suitable for hunting, nor will they become so during the term of the leases pursuant to HRS 171-26 and that the leases do not interfere with any existing hunting rights of way.

Staff believes the properties will be successfully sold at auction and has fielded numerous calls and inquiries regarding the availability of cabins in both Waimea and Koke'e State Parks.

The terms and conditions of the leases shall be similar to those issued in 2009.

**RECOMMENDATION:** That the Board:

1. Declare that after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Approve the issuance of recreational residence leases for 18 recreational residences pursuant to Act 223 (2008) by way of a three tiered public auction under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following :
  - a. That the terms of the lease and the lease form be similar to those existing recreational residence leases issued in 2009.
  - b. That the minimum upset rent shall be the market property rents determined in the January 1, 2009 bulk summary appraisals.
3. That the Chairperson be authorized and to enter into the new leases.
4. That the terms and issuance of the recreational leases be subject to approval by the Attorney General.

Respectfully Submitted,



DANIEL S. QUINN  
State Parks Administrator

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson

Attachments

**EXHIBIT "A"**  
**Division of State Parks**  
**Auction Inventory**

Koke'e and Waimea  
Canyon State Parks

Updated 5/25/2011

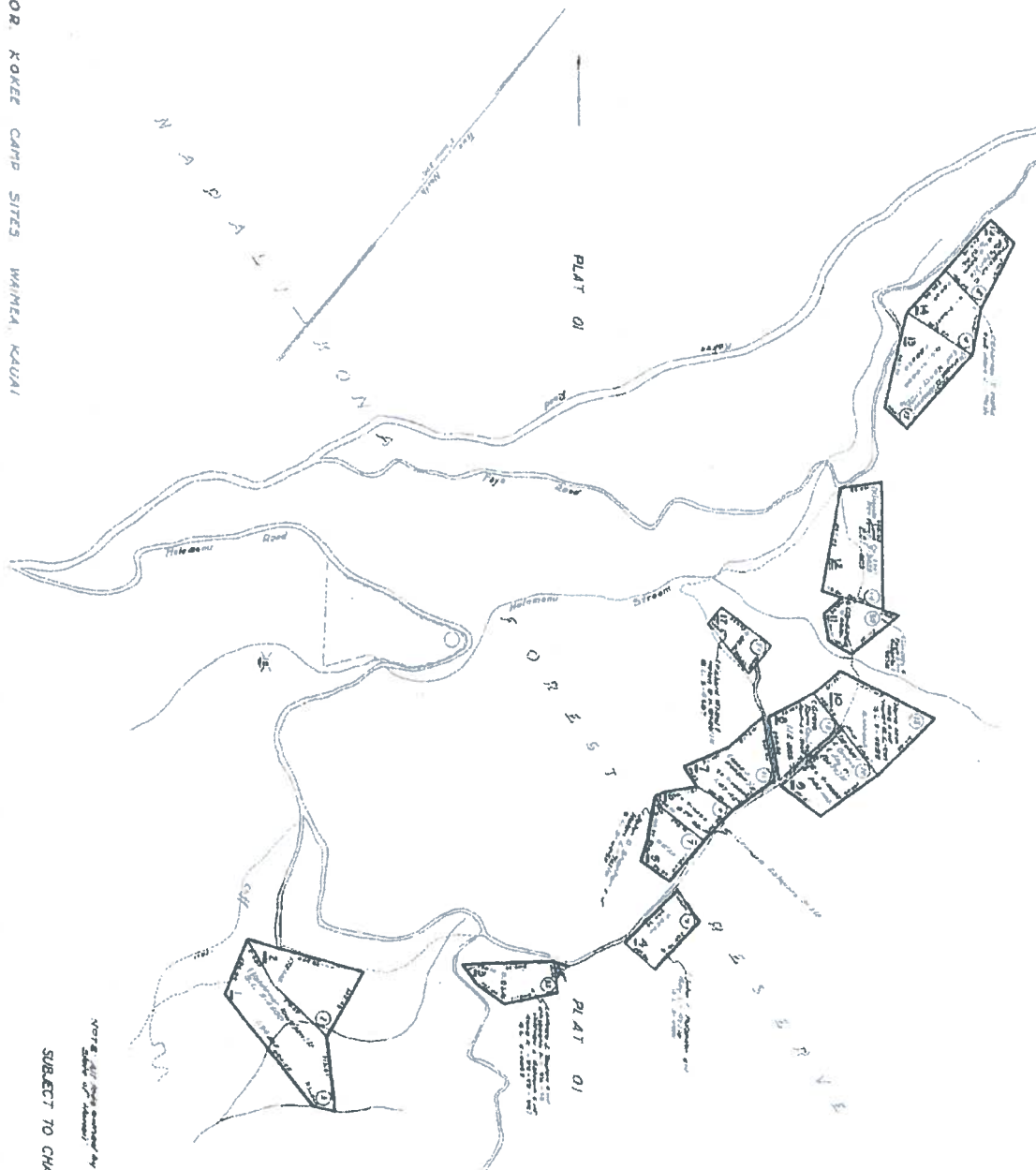
PSF: SP110402

Lot ID	Lot	Plat	TMK	Land Area	Acreage	Dwelling Area	Wellhead Protection Zone
P11	11	Pu'u ka Pele	1-4-02: 12	36,590	0.84	1,448	No
P5	5	Pu'u ka Pele	1-4-02: 32	49,222	1.13	985	No
P47	47	Pu'u ka Pele	1-4-02: 34	50,094	1.15	720	No
P46	46	Pu'u ka Pele	1-4-02: 36	48,787	1.12	662	No
P2	2	Pu'u ka Pele	1-4-02: 48	41,817	0.96	992	No
P4	4	Pu'u ka Pele	1-4-02:30	31,798	0.73	1,627	No
P48	48	Pu'u ka Pele	1-4-02:42	43,560	1.00	817	No
P60	60	Pu'u ka Pele	1-4-02:60	43,995	1.01	945	No
P69	69	Pu'u ka Pele	1-4-02:66	37,897	0.87	591	No
P74	74	Pu'u ka Pele	1-4-02:71	39,204	0.90	804	No
P79	79	Pu'u ka Pele	1-4-02:76	50,094	1.15	724	No
H11	11	Halemanu	1-4-03:07	64,033	1.47	956	No
K41	41	Koke'e	1-4-04: 07	27,007	0.62	557	Yes
K55	55	Koke'e	1-4-04: 11	13,503	0.31	906	Yes
KD	D	Koke'e	1-4-04: 32	20,560	0.47	1,332	Yes
P64	64	Koke'e	1-4-04: 40	46,609	1.07	1,211	No
K87	87	Koke'e	1-4-04: 52	25,700	0.59	802	No
K88	88	Koke'e	1-4-04: 53	23,522	0.54	580	No
<b>Total</b>					<b>15.93</b>		



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POR. KOKEE CAMP SITES WAIMEA, KAUAI

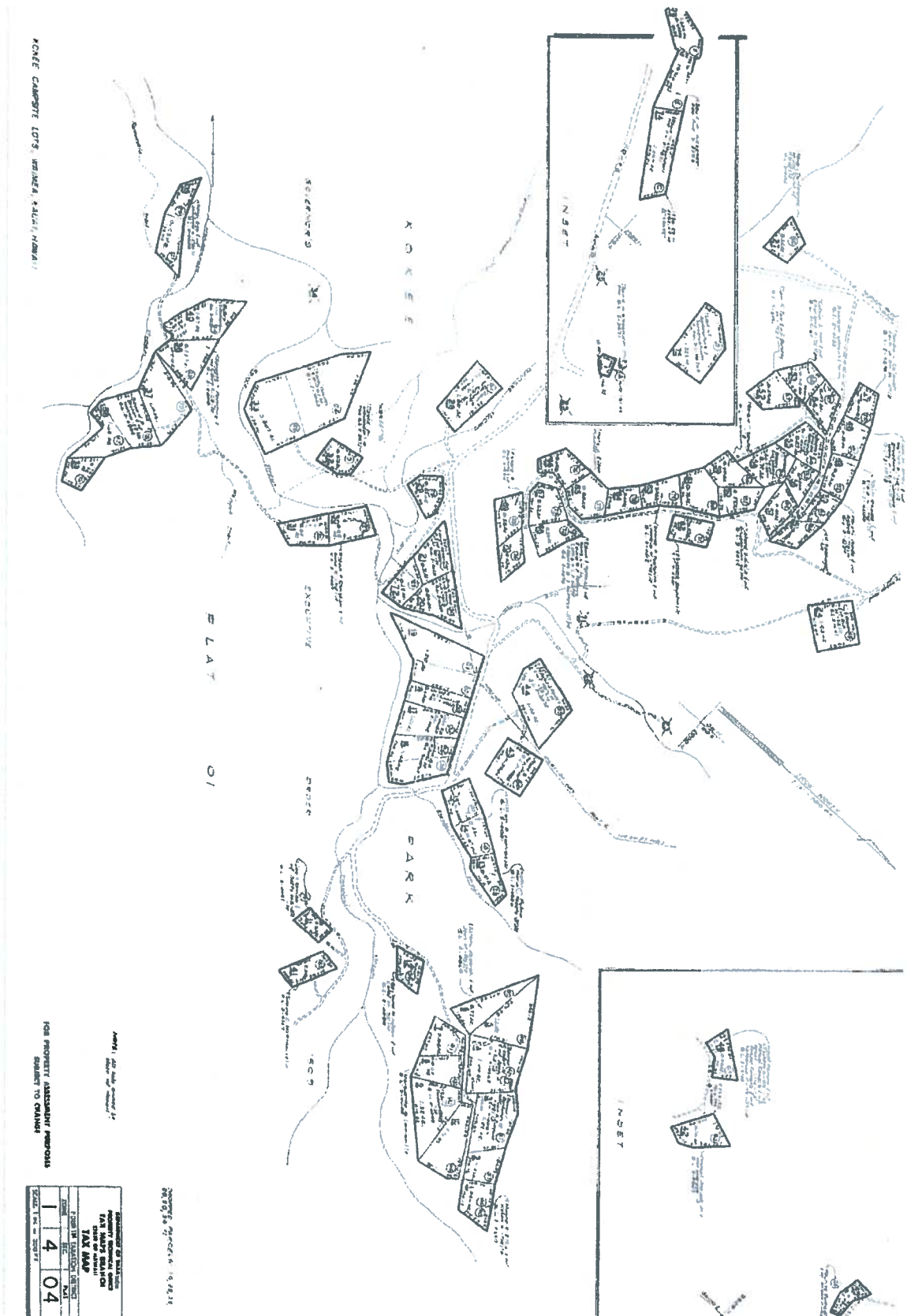


SUBJECT TO CHANGE

NOT TO SCALE

TAXATION MAPS BUREAU			
STATE OF HAWAII			
TAX MAP			
ZONE	SEC	PLAT	DIVISION
1	4	03	
CONTRACT NO. 10010			
SCALE 1" = 100' (AS SHOWN)			

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KOKE'E CAMPGROUND LOT'S, WAIMEA, KAUAI, HAWAII

FOR PROPERTY TAXATION PURPOSES  
 SUBJECT TO CHANGE

HAWAIIAN GOVERNMENT			
TAX MAP			
1	4	0	4
SCALE 1" = 100'			



Exhibit – "B"  
Act 223

HOUSE OF REPRESENTATIVES  
TWENTY-FOURTH LEGISLATURE, 2008  
STATE OF HAWAII

H.B. NO. 2872  
S.D. 2  
C.D. 2

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A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. For many decades, the State has granted permits  
2 or leases for recreation-residence use on public lands such as  
3 state parks and forest reserves for a term not to exceed 20  
4 years. Some of these permits and leases have recently expired  
5 in state parks at Koke'e and Waimea canyon, Kaua'i, and have  
6 caused uncertainty in the process of leasing these sites.

7 The purpose of this Act is to establish a one-time process  
8 for the leasing of public lands for recreation-residence use  
9 leases in locations at state parks or state forest reserves in  
10 counties with a population of less than 100,000.

11 SECTION 2. (a) The board of land and natural resources  
12 shall negotiate directly with all existing lessees or permittees  
13 of recreation-residence use leases in locations at state parks  
14 or state forest reserves in counties with a population of less  
15 than 100,000, for lease renewals; provided that the renegotiated  
16 lease:

17 (1) Shall be for a period not less than twenty years on  
18 such terms and conditions as may be prescribed by the

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1 board, pursuant to section 171-44, Hawaii Revised  
2 Statutes;  
3 (2) Shall be based on market rates for land and buildings,  
4 pursuant to section 171-17(b), Hawaii Revised  
5 Statutes; and  
6 (3) Is a "one time only" negotiation and does not ensure  
7 that there will be direct negotiations at the  
8 expiration of the renegotiated lease.  
9 (b) Existing lessees or permittees may provide a counter-  
10 offer based upon their own certified appraisal and the board of  
11 land and natural resources shall negotiate in good faith based  
12 upon the two appraisals.  
13 (c) The board of land and natural resources shall provide  
14 each lessee or permittee with proposed new lease terms and rates  
15 within three months of the effective date of this Act and shall  
16 negotiate final terms of each lease within four months of the  
17 effective date of this Act. The lessee or permittee shall have  
18 thirty days following the final notification to the lessee or  
19 permittee by the board of new lease terms, to agree to and sign  
20 the renegotiated lease, or the lease or permit shall expire on  
21 December 31, 2008, and the recreation-residence use lease shall  
22 be auctioned by the board.

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1 (d) Any recreation-residence use lease for a cabin that is  
2 vacant and owned by the State on the effective date of this Act  
3 or that expires on December 31, 2008, pursuant to subsection  
4 (c), shall be auctioned by the board pursuant to section 171-14,  
5 Hawaii Revised Statutes; provided that the board of land and  
6 natural resources shall first provide bona fide full-time  
7 residents of a county in the state with a population of less  
8 than 100,000 with the opportunity to obtain any such lease by  
9 auction. If any leases remain after such an auction, the board  
10 may offer remaining available leases at auction to bidders who  
11 are bona fide full-time residents of the State of Hawaii, and  
12 then at auction to nonresidents of the State.

13 SECTION 3. (a) There is established a Koke'e state park  
14 advisory council, to be placed within the department of land and  
15 natural resources for administrative purposes only. The  
16 advisory council shall consist of nine voting members appointed  
17 in equal numbers by the governor, the speaker of the house of  
18 representatives and the president of the senate in accordance  
19 with section 26-34, Hawaii Revised Statutes, and four ex-officio  
20 nonvoting members.



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C.D. 2

1 (b) The voting members of the advisory council shall be  
2 Kaua'i residents and shall possess general knowledge of at least  
3 one of the four strategic areas listed below:

4 (1) Education;

5 (2) Cultural resources;

6 (3) The environment; or

7 (4) Native plants, animals, and ecosystems.

8 (c) The ex-officio nonvoting members shall be as follows:

9 (1) A representative of the United States Fish and  
10 Wildlife Service;

11 (2) A representative of the department of land and natural  
12 resources forestry and wildlife division, as  
13 designated by the chairperson of the board of land and  
14 natural resources;

15 (3) A representative of the department of land and natural  
16 resources state parks division, as designated by the  
17 chairperson of the board of land and natural  
18 resources; and

19 (4) A representative of the county of Kauai, as designated  
20 by the Kauai county council.

21 (d) The voting members of the advisory council shall serve  
22 not more than two consecutive three-year terms, with each term



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1 beginning on July 1; provided that the initial terms of the  
2 appointed members that commence after June 30, 2008, shall be  
3 staggered as follows:

- 4 (1) Three members to serve three-year terms;  
5 (2) Three members to serve two-year terms; and  
6 (3) Three members to serve a one-year term.

7 For the initial appointments, the governor, the president  
8 of the senate, and the speaker of the house of representatives  
9 shall designate each of their appointees to serve a one, two, or  
10 three-year term.

11 (e) The members of the advisory council shall not receive  
12 compensation for their services but shall be reimbursed for  
13 expenses, including travel expenses, incurred in their duties  
14 relating to the council.

15 (f) A chairperson shall be elected annually by the  
16 advisory council from among the council's voting members;  
17 provided that no member may serve as chairperson for more than  
18 two consecutive years.

19 (g) Five voting members of the advisory council shall  
20 constitute a quorum to do business and any action taken by the  
21 advisory council shall be validated by a simple majority of the  
22 quorum.



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- 1 (h) The advisory council's responsibilities shall include:
- 2 (1) Reviewing and assisting in updating and revising the
- 3 Koke'e state park master plan;
- 4 (2) Advising and assisting in the management of the Koke'e
- 5 recreational cabin leases;
- 6 (3) Enhancing community education and cultural awareness
- 7 of Koke'e state park;
- 8 (4) Participating in the protection and preservation of
- 9 Koke'e state park's natural and cultural resources; and
- 10 (5) Advising and assisting in the overall implementation
- 11 of the Koke'e state park master plan.

12 SECTION 4. The department of land and natural resources

13 shall enforce all provisions of recreation-residential use lease

14 agreements and shall establish a schedule of penalties and fines

15 for any breach of the provisions of a recreation-residential use

16 lease agreement unless penalties and fines are specified in the

17 lease agreement.

18 SECTION 5. If any provision of this Act, or the

19 application thereof to any person or circumstance is held

20 invalid, the invalidity does not affect other provisions or

21 applications of the Act, which can be given effect without the



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- 1 invalid provision or application, and to this end the provisions
- 2 of this Act are severable.
- 3 SECTION 6. This Act shall take effect on July 1, 2008.



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C.D. 2

**Report Title:**

Department of Land and Natural Resources; Recreational-Residence  
Use Leases

**Description:**

Requires the board of land and natural resources to negotiate directly with all existing lessees or permittees of recreation-residence use leases in locations at state parks or state forest reserves in counties with a population of less than 100,000, for lease renewals; establishes a Koke'e state park advisory council. (HB2872 CD2)

